

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TIMOTHY DEAN PARKS,

Plaintiff,

No. 08-CV-13797-DT

vs.

Hon. Gerald E. Rosen

MICHIGAN DEPARTMENT OF  
CORRECTIONS, ST. CLAIR COUNTY  
DRAIN COMMISSION, and  
TODD BAKER,

Defendants.

ORDER ADOPTING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION, GRANTING  
DEFENDANT MDOC'S MOTION TO DISMISS, AND  
DISMISSING PLAINTIFF'S COMPLAINT, IN ITS ENTIRETY

At a session of said Court, held in  
the U.S. Courthouse, Detroit, Michigan  
on February 27, 2009

PRESENT: Honorable Gerald E. Rosen  
Chief Judge, United States District Court

This Section 1983 civil rights action having come before the Court on the February 9, 2009 Report and Recommendation of U.S. Magistrate Judge Charles E. Binder, recommending that the Court grant Defendant MDOC's Motion to Dismiss and also dismiss *sua sponte* Defendants St. Clair County Drain Commission and Todd Baker for failure to serve process within the 120-day time limit allowed for doing so under the federal rules; and no timely filed objections having been filed to the Report and Recommendation; and the Court having reviewed the Magistrate Judge's Report and

Recommendation and the Court's entire file of this action and having concluded that, for the reasons stated in the Report and Recommendation, Plaintiff's Complaint should be dismissed, in its entirety; and the Court being otherwise fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation of February 9, 2009 [**Dkt. # 16**] be, and hereby is, adopted by this Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Defendant Michigan Department of Corrections' Motion to Dismiss [**Dkt. # 12**] is GRANTED. As recommended by the Magistrate Judge,

IT IS FURTHER ORDERED that Plaintiff's claims against the MDOC are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Plaintiff's claims against Defendants St. Clair County Drain Commission and Todd Baker are DISMISSED, WITHOUT PREJUDICE, due to Plaintiff's failure to serve process upon these Defendants within the 120-day time limit allowed for doing so under the federal rules.

s/Gerald E. Rosen  
Chief Judge, United States District Court

Dated: February 27, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 27, 2009, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry  
Case Manager